



Date: June 15, 2011  
To: Montana Revenue and Transportation Interim Committee  
From: Nancy Riedel, Director-State Tax Policy  
Re: Proposed Plan for SJR 17

Thank you for the opportunity to provide comments regarding the proposed plan for the interim study to analyze the property tax valuation of centrally assessed and industrial property (SJR 17). This is a very important issue for Verizon as we continue to make significant infrastructure investments to improve the services we provide in Montana, while simultaneously defending against property valuation methodologies that serve as deterrents to that investment. We would appreciate your consideration of the following issues during the course of your study and we are anxious to provide additional details.

We have been engaged in significant controversies with the MT Department of Revenue (DOR) since 2007 when they reinterpreted existing statutes and began centrally assessing wireless property. For many years prior to 2007, wireless property was classified like general business property and locally assessed. However, in 2007 without any change in the authoritative statutes or regulations, the DOR determined that wireless property should be centrally assessed, using valuation methods that have historically applied to traditional, regulated telecommunications companies.

The DOR's reclassification automatically doubled our tax rate. Additionally, the mere circumstance of being valued by DOR instead of locally has resulted in substantial increases, year-over-year, in the valuation that has been assigned by the tax assessor (which is now DOR) to our property. For example, the 2011 value determined by DOR is more than 300% higher than the value that would have been determined for the same property under the previous locally used cost-based valuation methodology. Currently, we have pending valuation appeals for 2009, 2010, and 2011.

Fundamentally, the determination of the fair market value of taxable property should be the same regardless of the assessment methodology that is applied. However, the DOR's aggressive unit valuation methodology starts by assessing the value of the entire business of a taxpayer, and therefore this methodology inevitably includes intangible assets that should be exempt under Montana statutes (MCA 15-6-218). As a result, taxpayers that are subject to centralized, unit-based valuation by DOR face a perpetual, year-to-year battle to establish their entitlement to the clear, broadly stated exemption for intangible property that the Legislature has provided by statute.

Instead of recognizing this problem, the DOR has exacerbated it by recently adopting regulations that—for all practical purposes—virtually eliminate the statutory exemption for intangible personal property. Verizon and AT&T have filed challenges to the adoption of these rules in Montana District Court. The Montana State Tax Appeal Board (STAB) has granted our motion to stay the proceedings in our 2009 valuation appeal until our challenge to the regulations has been resolved at District Court.

The unit method of assessment has historically been used in Montana, as well as in many other states, to value property that was owned by utilities operating as monopolies, whose rates have been subject to regulation to ensure they earned a fair return on their investment. The tenets of unit assessment are consistent with this operating model. The anomalies and controversies that exist today are the result of applying this same methodology to a highly competitive industry that provides different services, has never been rate regulated and has very different physical infrastructure and asset composition.

Montana is an outlier in terms of the methodologies that most other states rely on to value wireless property, and in the aggressiveness with which its methodologies have been applied. The cost method is used predominantly in other states to determine the fair market value of tangible property because that method values only tangible property in the first place. Preparing a unit method assessment of the entire business enterprise and then attempting to remove nontaxable, intangible value is generally recognized to be a much more complicated way to determine the market value of tangible property.

The inherent difficulty of extracting the exempt, intangible property from a unit valuation is particularly acute with respect to wireless companies. This is because the majority of our asset value is comprised of intangible property, most significantly the FCC licenses that are required to provide wireless service. Thus, it is no surprise that the procedures that were once appropriate to value a regulated utility are not reliable to determine values for wireless property that are consistent with the specific authority provided by the Montana legislature.

We are very interested in discussing solutions that will provide stability and certainty not only for us, but also for the taxing jurisdictions that have the challenge of budgeting around taxpayer protests that may encumber property tax revenues for several years. Furthermore, providing certainty will enhance the business climate in Montana for any company that has a choice of location for their facilities. Verizon is committed to maximizing our investment to provide increased access to affordable, advanced broadband services that will increase productivity for the citizens of Montana, and to reducing litigation that is costly and inefficient for everyone involved.